

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

Plaintiff,

v.

B4B EARTH TEA LLC, a limited liability company;

B4B CORP., a corporation; and

ANDREW MARTIN SINCLAIR, individually and as an officer of B4B EARTH TEA LLC and B4B CORP.,

Defendants.

Civil Action No.: 22-CV-1159

(Vitalicano, J.)
(Levy, M.J.)

**UNITED STATES' RESPONSE TO DEFENDANT SINCLAIR'S
REPLY TO PLAINTIFF'S MEMORANDUM SUBMITTED 4/26/2024**

Plaintiff respectfully submits this brief response to the "Reply to Plaintiff Memorandum Submitted 4/26/2024" recently filed by Defendant Sinclair ("Defendant").

In Defendant's "Reply to Plaintiff Memorandum Submitted 4/26/2024," Dkt. 45, he claims that the United States, in its Reply Memorandum in Support of United States' Motion to Dismiss Counterclaim, Dkt. 44-8, "lied" to the Court. Dkt. 45 at 1. Defendant's claim is false. It appears to be based on a mischaracterization of a sentence from the United States' response to Defendants' Interrogatory 18. *See id.* Defendant quotes for the Court only half of the relevant sentence, leaving out the language that refutes Defendant's accusation "that plaintiff had

requested multiple platforms to ban Defendant accounts and all followed.” *Id.* Below is the full sentence of the United States response to Interrogatory 18, with the portion Defendant withheld from the court in bold font:

Plaintiff responds that in or around January 2021, an FDA employee observed a campaign relating to B4B Earth Tea on the website Indiegogo and informed Indiegogo that B4B Earth Tea was an unapproved new drug, **and Plaintiff further responds that the FDA, FTC, and DOJ have not asked any social media platform to block, ban, remove, or censor content relating to B4B Earth Tea.**

As the United States’ full response makes clear, the FDA employee merely relayed information to Indiegogo about the product Defendant was selling, and the FDA, FTC, and DOJ have not asked any social media platform to block or ban Defendant or his content. This interrogatory response is not inconsistent with any statement in the United States’ reply memorandum, and the United States has not made any “false statement[s] to the court.” Dkt. 45 at 2. To the contrary, the interrogatory response reinforces that Defendant’s allegations that the FDA, FTC, or DOJ “requested multiple platforms to block and ban the Defendant” lack a factual basis. *See* Def.’s Answer and Counterclaim, Dkt. 40, at 2.

Dated: May 7, 2024

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

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United States Attorney

/s/
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